HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No.8076/2021

Harbhajan Son Of Maida, Resident Of Village Sotka, Police Station, Ramgarh, District Alwar (Rajasthan).

----Petitioner

Versus

1. State Of Rajasthan, Through P.p.
2. Victim

----Respondents

For Petitioner(s)	:	None present
For Respondent(s)	:	Mr. Jitendra Singh Rathore, PP

JUSTICE ANOOP KUMAR DHAND

Order

02/05/2026

1. The instant misc. petition is listed before this Court in pursuance of the directions issued by the Hon'ble Apex Court in the case of **Vijay Kumar and Ors. Vs. State of Rajasthan** (Petition for Special Leave to Appeal (Crl.) No. 773/2026, decided on 15.01.2026), wherein the Hon'ble Apex Court observed that in various matters, interim orders have been passed in criminal revision petitions and petitions filed under Section 482 Cr.P.C., as a result of which trial relating to serious offences such as murder, rape, dacoity, dowry death, etc., could not proceed and remained stalled/held up due to the passage of considerable time.

2. Directions have been issued to this Court and other High Courts to take up such like matters which are pending since long, on priority and decide the same expeditiously without deferring the hearings to subsequent dates.

3. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned FIR No.512/2021, registered with Police Station Sikri, District Bharatpur for the offences punishable under Sections 363, 365, 366, 376 and 120B IPC.

4. It has been averred in the instant criminal misc. petition that the impugned FIR has been lodged against the accused-petitioner after a delay of around five years with an ulterior motive to abuse the process of law. Hence, a prayer has been made to quash the proceedings of the impugned vexatious and malicious FIR.

5. *Per contra*, learned Public Prosecutor opposed the prayer made in the instant misc. petition and submitted that after thorough investigation in the instant matter, the allegations have been found to be *prima facie* proved against the petitioner-Harbhajan for the offences under Sections 376 and 342 IPC and the allegations against the rest of the accused persons i.e. Rajendra, Daulat, Bheem and Nando were not found to be proved. He further submits that since the accused-Harbhajan was absconding, hence, his arrest warrant was taken by the Police under Section 37 of the Rajasthan Police Act from the Court of ACJM No.2, Nagar and several efforts were made to trace him out. Since the accused-Harbhajan was absconding, evidence was recorded in his absence and accordingly, charge-sheet under Section 299 Cr.P.C. has been submitted against him. Learned counsel submits that under these circumstances interference of this Court is not warranted.

6. Heard and considered the submissions made at the Bar and perused the material available on record.

7. Perusal of the allegations levelled in the impugned FIR reveals commission of cognizable offence. The correctness of the allegations cannot be examined by this Court while exercising its inherent powers contained under Section 482 Cr.P.C. This Court cannot conduct fishing and roving enquiry to find out the truth behind the allegations levelled against the accused-petitioner. Certainly, this task has been assigned to the Investigating Officer, who has already investigated the matter and found *prima facie* case against the accused-petitioner under Sections 376 and 342 IPC.

8. It is settled proposition of law that when an accused is not found to be traceable, evidence of the witnesses can be recorded in his/her absence and charge-sheet under Section 299 Cr.P.C. can be submitted before the concerned Court.

9. In the instant case also, the accused-petitioner-Harbhajan is absconding since the date of commission of offence and since he was not traceable, therefore, his arrest warrant was taken by the Police under Section 37 of the Rajasthan Police Act and charge-sheet under Section 299 Cr.P.C. has been submitted against him before the concerned court.

10. Hence, under these circumstances, this Court finds no merit and substance in the instant criminal misc. petition. Accordingly, the same is hereby rejected.

11. Stay application as well as all pending applications, if any, stand disposed of.

(ANOOP KUMAR DHAND),J

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